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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,748	07/31/2003	Takeshi Tsubouchi	033528-006	9932

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT	PAPER NUMBER
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3734

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,748

Applicant(s)

TSUBOUCHI, TAKESHI

Examiner

Michael G. Mendoza

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 12-21 are withdrawn in view of Mussivand et al. 6290639.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12-16, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mussivand et al. 6290639.
4. Mussivand et al. teaches a method for implanting a circulatory apparatus in a patient, the apparatus comprising a mechanical circulatory device 2 and a conduit assembly 100 for attachment to the mechanical circulatory device, the conduit assembly including a first rigid conduit 170 and a second rigid conduit 110; the method comprising the steps of: attaching one end of the first rigid conduit to the mechanical circulatory device with a first coupling in a rotatable position; positioning the mechanical circulatory device relative to the patient; rotating the first rigid conduit until a desired position of the first conduit relative to the patient is achieved; moving the first coupling to a fixed position so as to maintain a predetermined orientation of the first rigid conduit when the first coupling is disposed in the fixed position; attaching another end of the first rigid conduit to the second rigid conduit with a second coupling in a rotatable position;

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positioning the mechanical circulatory device relative to the patient; rotation the second rigid conduit until a desired position of the second rigid conduit relative to the patient is achieved; moving the second coupling to a fixed position so as to maintain a predetermined orientation of the second rigid conduit when the second coupling is disposed in the fixed position (col. 4, lines 29-61); wherein the first rigid conduit and the second rigid conduit are circular in cross-section (see figures); wherein the first rigid conduit and the second rigid conduit are formed from titanium (col. 7, lines 56-57); wherein the first coupling comprises a first rotatable nut, the first rotatable nut being movable between a rotatable position wherein the first rigid conduit is rotatable relative to the mechanical circulatory device, and a fixed position wherein the first rigid conduit is fixed relative to the mechanical circulatory device (col. 4, lines 29-61); wherein the first rotatable nut engages a correspondingly threaded inflow port 6 on the mechanical circulatory device; wherein the conduit defined a conduit for conducting blood between a patient and a ventricular assist device; wherein the conduit defines a conduit for conducting blood between a patient and a left ventricular assist device (see fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mussivand et al.

7. Mussivand et al. teaches the method for implant a circulatory apparatus according to claim 15. It should be noted that Mussivand et al fails to teach wherein the second coupling comprises a second rotatable nut. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the gland nut 160 of Mussivand et al. on the second rigid conduit 110, since it has been held that a mere reversal of the essential working parts of a device involves only routing skill in the art. *In Re Einstein*, 8 USPQ 167.

8. Claim 19 IS rejected under 35 U.S.C. 103(a) as being unpatentable over Mussivand et al. in view of Goldenberg 5498043.

9. Mussivand et al. teaches a method for implanting a circulatory apparatus according to claim 18. It should be noted that Mussivand et al. fails to specifically teach wherein the second rotatable nut includes a lip, and wherein the first end of the second conduit includes a flange.

10. Goldenberg teaches a conduit assembly with a common rotatable nut 26 with a lip 28 and a flange 31 for rotatably retaining the nut on the conduit. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the lip and the flange of Goldenberg for allowing rotation of the nut while retaining the nut on the conduit. Furthermore, it is well known in the art of conduit connectors to use a nut with a lip and a flange to hold the nut in place when connection conduits, hoses, tubes, etc.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM

3/21/2006

**GARY JACKSON
PRIMARY EXAMINER
GROUP 3300**



3/30/2006